

**TESTIMONY OF
THURGOOD MARSHALL, JR.
VICE CHAIRMAN
UNITED STATES OLYMPIC COMMITTEE ETHICS OVERSIGHT COMMITTEE
BEFORE THE
SENATE COMMERCE, SCIENCE & TRANSPORTATION COMMITTEE
JANUARY 28, 2003**

Mr. Chairman, thank you for the invitation to appear before the Commerce Committee this afternoon. I commend you and Senator Hollings and the members of this Committee for your continued involvement in issues that pertain to the United States Olympic Committee. I also want to acknowledge Senator Stevens for his decades of leadership in the field of amateur sports.

My name is Thurgood Marshall Jr., and I am a partner with the law firm of Swidler Berlin Shereff Friedman LLP. I am appearing before you in my capacity as one of the two Vice Chairs of the Ethics Oversight Committee (“Ethics Committee”) of the United States Olympic Committee (“USOC”). I have served on the Ethics Oversight Committee and as its Vice Chair for approximately two years.

The USOC Ethics Committee was created in the wake of the Salt Lake Olympic bid scandal. It is comprised of ten uncompensated volunteers. Staff support is provided by the United States Olympic Committee Compliance Officer. The Compliance Officer is responsible for the management of the USOC Ethics and Compliance Program. Those duties include the establishment and implementation of training and governance programs, as well as investigating specific allegations of ethics and compliance related issues. Last year, for example, the Compliance Officer and the Ethics Committee played a significant role in developing comprehensive governance plans that were applied to the bid city process that culminated in the

selection of New York City as the candidate city to host the 2012 Olympic and Paralympic Games.

The Chief Compliance Officer reports to the Chief Executive Officer for matters related to USOC staff and to the Ethics Committee and the USOC President for matters related to volunteers, member organizations, and the Chief Executive Officer. Any person or member organization that violates or condones the violation of the USOC Code of Ethics is subject to disciplinary measures, which may include termination. The Ethics Committee is charged with reviewing violations of the Code of Ethics.

As a member of the Ethics Committee, I participated in the deliberations giving rise to our recent report, dated January 10, 2003, a copy of which was made public by the USOC on January 13, 2003, and is attached to my testimony. I first became aware of allegations regarding the USOC Chief Executive Officer, Lloyd Ward, in the Fall of 2002. The Ethics Committee convened by teleconference on four occasions to review the allegations, once each month from October 2002 to January 2003. I was out of the country and unable to participate in the teleconference that occurred in November 2002. With that exception, I fully participated in the deliberations of the Ethics Committee. I concurred in the decision to retain Fred Fielding to conduct a factual investigation into the allegations regarding Mr. Ward. I also reviewed and approved of the unanimous report that the Ethics Committee provided to the USOC Executive Committee for consideration at its January 13, 2003 meeting.

Consistent with our deliberations, I worked with Mr. Fielding to draft language for the Ethics Committee to consider during our teleconference on January 8, 2003. I also worked with Mr. Fielding to draft the final report language that the Ethics Committee approved unanimously on January 9 and 10. Other than to offer a technical addition, Mr. Duberstein did not participate

in the drafting of the language contained in our report. I would note that the Ethics Committee also agreed to include as an attachment to its report a memorandum prepared by Fred Fielding which reflected the results of his investigation of the facts surrounding the allegations against Mr. Ward.

As a matter of process, our Committee authorized Mr. Duberstein to contact the USOC officers individually on January 10, 2003, and to recite to them the contents of our report. I handled the formal transmittal of the hard copies of our report and the Fielding Memorandum to the USOC officers and the membership of the USOC Executive Committee. I completed that task on January 12, 2003, with delivery of sealed copies of the documents to Mark Levinstein, who served as Counsel to the USOC Executive Committee.

I have reviewed the contents of the Ethics Committee report and the Fielding memorandum as recently as last night. I remain fully satisfied with its contents. I am also confident that the process that we undertook to produce that report was thorough and fair. Our report did not address the issue of sanctions in connection with the conduct of Mr. Ward or any other individuals and I believe that the issue of sanctions was appropriately left to the judgment of the Executive Committee. I understood that our task was to investigate the facts associated with the allegations concerning Mr. Ward and to render our assessment of those facts. That is precisely what we did. As our Committee report makes clear, our interpretation of the facts indicated that Mr. Ward's conduct created an appearance of a conflict of interest. We also found that there were mitigating circumstances. The record reflects that the USOC Executive Committee accepted our interpretation and determined appropriate sanctions.

As he has on previous occasions with respect to other matters that have come before our Committee, Fred Fielding agreed to undertake an investigation and to submit his findings to us.

He did so in the thorough manner that we have come to expect from him. He presented his findings to us by written report and made himself available to respond to our questions on each of our conference calls. I am satisfied that Mr. Fielding pursued all relevant issues during the course of his investigation. He was not constrained in any way. In fact, Mr. Fielding asked for and was granted permission to expand his charter to permit additional interviews of others potentially having knowledge of the alleged incident.

I would like also to take a moment to address several issues that have arisen in connection with the work of our Committee and specifically with regard to Mr. Duberstein. I am familiar with the concerns that have been raised. Each of those concerns is utterly inconsistent with the way in which our Committee proceeded and is inconsistent with Mr. Duberstein's overall stewardship of the Ethics Committee. At no point did Mr. Duberstein influence our deliberations in an improper way.

Moreover, as befits such a Committee, each of its members is independent and has had independent communication with the USOC Ethics Compliance Officer. I would have been quick to question Mr. Duberstein or others involved in our process had any concerns crossed my mind, and I believe that each of my colleagues on the Ethics Committee has felt similarly free to raise concerns as warranted. For example, I questioned Mr. Duberstein extensively about the recusal of Mr. Rodgers until I was satisfied with that course of action.

On the broader issues regarding USOC interaction with its major corporate sponsors, I submit that the interaction of the USOC with such sponsors raises some issues that are far more complicated than the commentators would have us believe.

I remain committed to the mission of the USOC and the important role that it plays in developing, training and nurturing our Nation's Olympic athletes. It is because of the

importance of that mission that I am hopeful that through the Congressional oversight process improvements can be made.

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